

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UNITED STATES OF AMERICA

v.

Case No. 8:03-CR-77-T-30TBM

HATEM NAJI FARIZ

MOTION TO AMEND PRETRIAL DISCOVERY ORDER

Defendant Hatem Naji Fariz, by and through undersigned counsel, hereby respectfully submits his Motion to Amend Pretrial Discovery Order in anticipation of the discovery conference scheduled for December 10, 2004 at 11:00 a.m.

On June 4, 2004, this Court entered a Second Amended Pretrial Discovery Order setting forth deadlines for Rule 16 and other discovery. Doc. 152. On August 19, 2004, this Court entered an order outlining a procedure for disclosure of English language transcripts to be used at trial. Doc. 605. On November 9, 2004, this Court continued the trial, originally scheduled for January 2005, to April 4, 2005. Doc. 736. Based on the new trial date, Mr. Fariz respectfully requests that this Court issue an amended discovery order.

The discovery in this case is ongoing. In addition to the exchange of English language transcripts, the government continues to add to the already voluminous discovery materials. For example, the government has stated that it intends to produce over 80 additional recorded conversations (presumably in Arabic). Thus far, the defense has received only short statements of the topics of these conversations. Mr. Fariz anticipates that further

Brady material will be disclosed (the government has disclosed only several short paragraphs representing summaries of classified materials), further expert disclosures (the government has disclosed the names of dozens of experts, but has not yet provided summaries of anticipated testimony for many of them), etc. Due to the extensive and ongoing discovery process, Mr. Fariz contends that adherence to a reasonable schedule is necessary to both his and the government's ability to be prepared for trial on April 4, 2005.

English language transcripts are extremely time consuming to produce. Mr. Fariz does not object to the government's request to extend the deadline for disclosure of all of its transcripts. However, the government's proposed schedule does not allow sufficient time for the defense to produce its English language transcripts. Therefore, Mr. Fariz suggests the following dates for disclosure of transcripts:

February 1, 2005 – government completes production of transcripts

March 25, 2004 – Mr. Fariz completes production of transcripts

Mr. Fariz also suggests that further deadlines be set for final disclosure of Rule 16, materials, disclosure of Brady materials, deadline for notice of foreign depositions, and any other deadlines the Court deems appropriate. Specifically, Mr. Fariz requests that the Court require the government to complete its production of Brady material and Rule 16 disclosures 60 days prior to trial. Such a deadline would allow Mr. Fariz the opportunity to translate additional Arabic or Hebrew materials, complete investigations, and determine whether foreign depositions may be necessary. Most importantly, such a deadline would help to ensure Mr. Fariz' readiness for trial on April 4, 2005.

Wherefore, the Defendant, Hatem Naji Fariz, respectfully requests that this Honorable Court enter an Amended Pretrial Discovery Order that includes deadlines which will ensure that both parties are adequately prepared for trial.

Respectfully submitted,

R. FLETCHER PEACOCK
FEDERAL PUBLIC DEFENDER

s/ Kevin T. Beck
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, 2004, a true and correct copy of the foregoing has been furnished by CM/ECF, to Walter Furr, Assistant United States Attorney; Terry Zitek, Assistant United States Attorney; Cherie L. Krigsmann, Trial Attorney, U.S. Department of Justice; William Moffitt and Linda Moreno, counsel for Sami Amin Al-Arian; Bruce Howie, counsel for Ghassan Ballut; and to Stephen N. Bernstein, counsel for Sameeh Hammoudeh.

s/ Kevin T. Beck
Kevin T. Beck
Assistant Federal Public Defender